



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

HD:hd
Docket No: 05369-99
13 December 2000

LCDE [REDACTED] USNR
[REDACTED]
[REDACTED]
[REDACTED]

Dear Commander [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552. You requested that your date of rank be adjusted from 1 August 1994 to 1 September 1998.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 7 December 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by the Navy Personnel Command (NPC) dated 30 November 1999, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Further, they noted your orders to active duty incorrectly indicated that if your placement on the active duty list rendered you eligible for consideration in-zone or above-zone for a promotion board within one year of entering active duty, you would be considered for promotion unless you requested deferment. The letter of 30 June 1999 from the Commander, NPC correctly advised you that the Chief of Naval Personnel "will automatically defer eligibility of an officer who is in or above zone for promotion for up to one year from the date the officer enters active duty unless that officer specifically requests to be considered." Since you did not request to be considered, you were entitled to such deferment without any adjustment of your date of rank; and consequently, you were deferred from consideration above-zone by the Fiscal Year 01 Line Commander Selection Board, which met on 7 March 2000. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



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5364-99
5420
Ser 812/9U817
30 Nov 99

MEMORANDUM FOR CHAIRMAN, BOARD FOR CORRECTION OF NAVAL RECORD

Subj: BCNR PETITION ICO LCD [REDACTED]
USNR, [REDACTED]

Ref: (a) NPC Memo 5420 PERS-00ZB of 25 Oct 99
(b) SNM'S DD Form 149 of 18 Aug 99
(c) 10 USC 741
(d) SECNAVINST 1427.2 *KB 2m 31 Oct 97*
(e) MILPERSMAN 1320-150

1. Reference (a) requested comments and recommendations in response to reference (b).

2. Reference (c), implemented by reference (d) authorizes a date of rank adjustment for a reserve commissioned officer who is to be placed on the active duty list (ADL) if said officer has not served on continuous active duty since original appointment as an officer. The adjustment is made in one month increments, with a maximum of three years, and would be effective on the date of placement on the ADL. In LCDR [REDACTED] situation his date of rank could have been adjusted for only a maximum of 3 months had he requested due to his reserve status history.

3. There is no record [REDACTED] ever requesting a date of rank adjustment. Reference (e) describes the general assignment recall program and briefly mentions the date of rank adjustment. Reserve Officers who inquire about our program are referred to the MILPERSMAN article before filling out and submitting the request form to PERS-812. The article will be reviewed for clarity.

4. Regrettably, as reference (d) states "adjustment...is made on the date of placement on the active duty list." As such, it is no longer possible to consider an application for an adjustment of [REDACTED] date of rank.

[REDACTED]
By direction